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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,952	02/27/2004	Grace Liao	04127-URS	6683

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EXAMINER

PASSANITI, SEBASTIANO

ART UNIT PAPER NUMBER

3711

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,952

Applicant(s)

LIAO, GRACE

Examiner

Sebastiano Passaniti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on see detailed Office action.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office action is responsive to communication received 02/27/2004 – application papers filed.

Claims 1-5 are pending.

Following is an action on the MERITS:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 3 are rejected under 35 U.S.C. §102(b) as being anticipated by Furr ('432). As to claim 1, reference is made to Figures 6A and 7 and the description in col. 5, lines 1-36, wherein Furr discloses a playing figure having first and second portions, namely foot portion (53) and head portion (51). As to claims 2 and 3, a counterweight (58) may be selectively added to the head portion to change the location of the center of gravity, whereby the playing figure takes on a second posture that differs from a first posture assumed by the figure when the weight is not included within the head portion. In other words, the first posture leaves the player figurine in a

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substantially vertical orientation, while the second posture enables the player figurine to take on a substantially horizontal orientation.

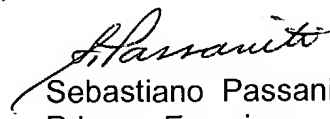
Claims 4 and 5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Furr ('432) in view of Leonhart and Ho. Furr shows every feature claimed with the exception of a tight-fitting jacket removably attached over the second portion of the figure. Leonhart indicates that a covering such as a helmet (4) may be fitted over a player figurine. Here, the helmet may serve as the claimed "jacket", as broadly as claimed. Note, Leonhart indicates that the prior art is replete with helmets constructed to tightly engage the head portion of a player figurine such that friction keeps the helmet from falling off during play (col. 1, lines 5-38). In addition, note that the helmet in Leonhart provides some measurable amount of weight to the head portion of the figurine. Moreover, the additional reference to Ho indicates that the upper portion of a player figurine may be provided with added weight that is included as part of the helmet or head portion of the figurine so that the location of the center of gravity may be changed. In view of the patent to Leonhart and the above reasoning, it would have been obvious to modify the device in the cited art reference to Furr by shaping the weight as a part of the upper portion of the body or as an accouterment that is added to the figurine, the motivation being to simply change the shape of the weight. The shape of the weight is not deemed critical. It would appear that having the weight shaped to resemble any common accessory would have simply involved an obvious change in design.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rudell and Makhoul show tabletop games, of interest. McCloud, Price and Furr ('073) show foosball games, of interest. Note the horizontal orientation of the paddles in May. Goldblatt and Meyer show toy elements that are oriented towards a vertical position under the effect of gravity.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sebastiano Passaniti whose telephone number is 571-272-4413. The examiner can normally be reached on Mon-Fri (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sebastiano Passaniti
Primary Examiner
Art Unit 3711

S.Passaniti/sp
November 26, 2004